REMARKS

In the non-final Office Action mailed April 15, 2003 the Examiner noted that claims 1-30 were pending. Claims 1, 11, 12, 14, 19, 25 26, 29 and 30 have been amended, new claim 31 has been added and, thus, in view of the forgoing claims 1-30 remain pending for reconsideration which is requested. No new matter has been added. The Examiner's rejections are traversed below.

STATUORY SUBJECT MATTER REJECTION

In the Office Action the Examiner rejected claims 11-24 as directed to non-statutory subject matter under 35 USC § 101. According to MPEP 2106, "Statutory Process Claims (for computer related inventions)", "to be statutory, a claimed computer related process must either: (A) result in a physical transformation outside the computer for which a practical application in the technological arts is either disclosed in the specification or would have been known to a skilled artisan or (B) be limited to a practical application within the technological arts." Although it is submitted that pricing of system events is within the technological arts the claims have been amended to note that a machine is involved in the operations. Further, in MPEP 2106, it is stated that " a claim is limited to a practical application when the method, as claimed, produces a concrete, tangible and useful result." As disclosed and claimed in claims 11-24, the invention is directed to a real time pricing system, which produces a price for real-time usage and systems events. The price of an event is clearly a concrete, tangible and useful result. These priced events are later used to bill customers. This is similar to the price or value for a distributed fund found to be directed to a statutory concrete, tangible and useful result in State Street Bank & Trust Co. v. Signature Financial Group Inc., 47 USPQ2d 1596 (Fed. Cir. 1998). It is submitted that claims 11-24 satisfy the requirements of 35 USC § 101. Withdrawal of the rejection is requested.

INDEFINITNESS REJECTION

In the Office Action the Examiner rejected claims 1-10, 26 and 26 under 35 U.S.C. section 112, paragraph, 2 as indefinite. The claims have been amended in consideration of the Examiner's comments and it is submitted they satisfy the requirements of the statute. If additional concerns with the claims arise, the Examiner is invited to telephone to resolve the same. Suggestions by the Examiner are also welcome. Withdrawal of the rejection is requested.

ANTICIPATION REJECTION OF CLAIMS 1-20 AND 25-28

On page 4 of the Office Action the Examiner rejected claims 1-20 and 23-38 under 35 U.S.C. § 102 as anticipated by Block.

Block and the present invention are directed to very different systems solving very different problems.

All examples described in Block involve pre-paid customer accounts against which current charges are debited. See Block col. 9, lines 61-64, col. 10, lines 6-9, col. 10, line 67 to col. 11 lines 1-2, col. 12, lines 26-28, col. 13, lines 15-17, col. 14, lines 47-50, col. 15, lines 33-35, col. 16, lines 40-49, col. 17, lines 37-39, col. 18, lines 30-32, col. 25 lines 42-67 and col. 26 lines 1-14. Block attempts to provide a solution for a telecommunications provider which needs to determine whether or not to provide a requested service based on an evaluation of the customer's current credit account balance where the credit balance is a pre-paid balance. If the balance is not sufficient to cover the requested service, then the service request is denied and the network connection is not completed.

In contrast, the present invention is related to the pricing process for customer accounts against which a customer can accrue various types of charges of perhaps indeterminate amount for various time intervals. It is not specifically directed towards pre-paid accounts. Further, the present invention does not require a determination of whether a service should be authorized or denied. Rather, the present invention provides a solution for performing the pricing process related to customer usage and applicable recurring charges at an optimal time to provide real time account status information to customers and to improve the regularly scheduled billing process by reducing the computational demands required during the billing process; since the customer account has been updated in real time, rather than waiting until the end of the agreed-upon billing period.

Block describes real time billing processing which occurs in a Network Routing Device, implemented with a central office (CO) switch to which the subscriber is attached to provided the subscriber with phone service (see Block col. 9, lines 45-55).

The present invention does not involve communication with hardware which places calls, etc. –rather, it aggregates charges due for services rendered in various time periods so that a customer's account balance is available in real time, as opposed to traditional billing systems which only calculate charges for services rendered when the system prepares the bill or invoice

to send to the customer.

The present invention does not depend on whether or not the Central Office switch used for service is capable of real time billing or not – see Block col. 20, lines 36-39 and col. 23, lines 38-40. The claimed system provides an account management process in dependent of Central Office switch capacity, as depicted in Block figure 2. As explained on page 8 (bottom) of the specification, "events are generated from a variety of places inside and outside the system." The specification further states (page 9, middle) that "regardless of where or when events are generated, they eventually must go though a pricing process for the system to be able to bill them to a customer. ... The approach of the present invention is to final price events in real-time (as soon as they are received) using a pricing process 68 that runs continuously." This feature is not taught or suggested by the prior art.

In rejecting claim 1 the Examiner pointed to the Tariff Memory 76, discussed in col. 6, lines 37-40 of Block, and alleged it described something that was essentially equivalent to the continuously running event creation process element of this claim. This text of Block specifically states:

> The Tariff Memory 76 stores information relating to the charges for various types of services, i.e., the tariff, as wells as taxes and flat rate charges. The Detailed Use Record Memory 78 stores detailed information regarding call charges. Although shown as four submemories for ease of illustration, these submemories can be incorporated into fewer or divided between more memories.

This text notes that the Tariff Memory 76 stores rates, such as $0.075 per minute, which is a flat rate for a duration/usage based charge, such as a telephone call. A memory is not a process as called for in this claim element. A memory, such as the Tariff Memory 76, does not determine anything it just stores things. In particular, this memory 76 does not make a determination as to whether a system event is to be created and create the event when it is due as called for in this claim element and described in the application with respect figure 8. It is submitted that the invention of claim 1 is patentable over Block for this reason and withdrawal of the rejection is requested.

In rejecting claim 1 the Examiner also pointed to the process being performed by processor 60 discussed in col. 7, line 55-col. 8, line 6 of Block and alleged it described something that was essentially equivalent to the continuously running pricing process element of this claim. This text of Block specifically states:

The Processor 60 calculates call charges in real time during a call, applying the

> duration of the call to the appropriate section of the tariff stored in the Tariff Memory 76. The call charges are then stored as a DUR in the DUR Memory 78. For a telephone call, the call charges are stored as a CDR which includes the called number, the call duration, the call charges, and any such other information as may be desired by the subscriber or the service provider.
> The Business Management System 50 can notify the Processor 60 of payments made by the subscriber via the Data Port 55. The Processor 60 updates the subscriber's account with the payment amount. The Processor 60 also updates the subscriber's account with flat charges, e.g., monthly equipment rental fees, and subtracts these charges from the subscriber's balance. If the subscriber has not submitted a payment in a predetermined amount of time, the Business Management System 50 can instruct the Processor 60 to disable the subscriber's service.

This text noted by the Examiner discusses calculating charges in real time during a call and discusses payment processing. The discussion particularly notes that call charges are calculated in real time using the contents of the tariff memory and the call duration or usage time of the telephone system, and these calculated charges are stored in memory 78. A telephone call is a user initiated usage event not a system created event (see the present application specification pages 5-7 for a discussion of the difference between usage events and system initiated and created events). This portion of Block also notes that the processor subtracts (or debits) certain charges from a users credit balance when the pre-paid type payment is made. This portion of Block says nothing about pricing system created events as called for in this claim element of claim 1. It is submitted that the invention of claim 1 is patentable over Block for this additional reason and withdrawal of the rejection is requested.

As noted in Block, Block discloses that "the processor 60 also updates the subscriber's account with flat charge, e.g., monthly equipment rental fees, and subtracts these charges from the subscriber's balance" (Block col. 7 line 66 – col. 8 line 2). Block does not discuss the timing to update the flat charges ("as they become available to the system" – claim 1). According to Block, flat charges, such as the monthly equipment rental fees, can be updated to subscribers account on a fixed schedule, which is a traditional approach the present invention seeks to improve upon. Claim 1 is patentable over Block for this additional reason and withdrawal of the rejection is requested.

Claims 2-10 depend from the above-discussed independent claim and are patentable over the prior art for the reasons discussed above. The dependent claims 2-10 also recite additional features not taught or suggested by the prior art as discussed in the examples below.

As discussed above, Block does not teach the timing to update the flat charges. Claims

3 and 4 focus on the timing of the creation (claim 3) and of the billing (claim 4) of system-created events.

Block at col. 9 lines 15-32 discusses the process when a subscriber requests information concerning charges accumulated to date. A list of chargeable calls is provided. In addition, this paragraph of Block does not teach any summary events. Claim 5 emphasizes summary event creation and pricing of the pricing of the application specification, page 3 middle, explains that " summary events, such as minimum charge summary, maximum charge summary, and tiered, and tapered summaries, are created/updated by the system each time an event that impacts the summary is processed by the pricing process." Block checks the subscriber's account balance. However, Block does not does not summarize usage or non-usage events.

Claim 10 emphasizes that unbilled events are recalculated when information impacting the charge to be determined change. The text of Block at col. 7, lines 43-50 noted by the Examiner specifically states:

> Alternately, the COS can be altered when the difference between the use and the PUL/SUL or PUC/SUC reaches a predetermined amount. The COS can also be linked to special promotions or discounts offered to specific subscribers or classes of subscribers. This can include discounts for volume use or the use of multiple services, etc. For example, when usage reaches a certain level during a given period, discounts can be applied to the subscriber billing rates.

As can be seen from this text, Block merely makes changes to future usage charges, such as applying a rate discount to future calls. Block does not make changes relative to prior unbilled events as is the case in the present invention

Claim 11, like claim 1, emphasizes determining whether system created events are priceable and pricing them something that Block does not do as discussed in detail above.

Claims 12 and 13 depend from the above-discussed independent claim and are patentable over the prior art for the reasons discussed above. The dependent claims 12 and 13 also recite additional features not taught or suggested by the prior art as discussed in the examples below.

Claim 12 emphasizes that events are priced immediately. In Block flat charges are subtracted at the time of a pre-payment.

Claim 14 calls for specifically making a determination as to whether an event is priceable and then pricing the event where system charge events are priced at a first opportunity after a

billing period ends. Block says nothing about this type of decision making and billing control. For these reasons claim 14 is patentable over Block and withdrawal of the rejection is requested.

Claims 15-18 depend from the above-discussed independent claim and are patentable over the prior art for the reasons discussed above. The dependent claims 15 - 18 also recite additional features not taught or suggested by the prior art as discussed in the examples below.

Claims 17 and 18 emphasize summary charges which are not mentioned much less discussed in Block.

Claim 19 emphasizes the creation of system events and the Examiner has pointed to the same portions of Block as in claim 1. For the reasons discussed above with respect to claim 1, it is submitted that this claim is patentable over Block. For this reason claim 19 is patentable over Block and withdrawal of the rejection is requested.

Claims 20, 23 and 24 depend from the above-discussed independent claim and are patentable over the prior art for the reasons discussed above. These dependent claims also recite additional features not taught or suggested by the prior art as discussed in the example below.

Claim 20 emphasizes system event creation independence while claim 24 emphasizes summary charges. Flat charges in Block are tied to pre-payment and summary charges are not mentioned much less discussed in Block.

Claims 25-28 not only emphasize the system events discussed above with respect to claim 1 but also emphasize additional features not discussed in Block such as summaries (claims 25 and 26). For these reasons claims 25-28 are patentable over Block and withdrawal of the rejection is requested.

ANTICIPATION REJECTION OF CLAIMS 29 AND 30

On page 10 of the Office Action the Examiner rejected claims 29 and 30 under 35 U.S.C. § 102 as anticipated by Griffin.

Griffin is also very different from the present invention. Griffin is directed to collecting usage type events that have been produced by other systems, converting them into database objects and using them to update a database. Griffin says and teaches nothing about system created events or the pricing of events as called for in these claims. For these reasons, claims 29 and 30 are patentable over Griffin and withdrawal of the rejection is requested.

OBVIOUSNESS REJECTION OF CLAIMS 21 AND 22

Page 11 of the Office Action rejects dependent claims 21 and 22 under 35 U.S.C. § 103 over Block and Jagadish. These dependent claims depend from the above-discussed independent claim 19 and are patentable over the prior art for the reasons discussed above. These dependent claims also recite additional features not taught or suggested by the prior art. For example, claim 22 emphasizes the use of subscription information to produce a schedule of system initiated and created events. Neither Block nor Jagadish teach or suggest this. The Examiner is requested to note that claims 21 and 22 (from 19) are directed to creating events while Jagadish is directed to billing. The Examiner is requested to note that event generation, event pricing and billing are different operations and can be independent (see application figure 8 - system event creation, figure 6 - pricing and figure 7 - billing). It is submitted that the dependent claims are independently patentable over the prior art. For these reasons, claims 21 and 22 are patentable over Griffin and withdrawal of the rejection is requested.

NEW CLAIM 31

New claim 31 is directed to a system that has a continuous system event creation process creating system events, a continuous pricing process pricing system and other events including usage events and an intermittent billing process that calculates bills from the priced events based on a billing cycle and on customer requests. This produces a system that reduces the load on billing cycles because events are priced is a continuous manner throughout the billing period and also is capable of producing an immediate "bill" or account balance when a customer requests such because all events to that date have been priced resulting in the "billing load" being low. The prior art does not teach or suggest such. It is submitted that claim 31 is patentable over the prior art.

CONCLUSION

It is submitted that the claims satisfy the requirements of 35 U.S.C. sections 101 and 112. It is further submitted that the claims are not taught, disclosed or suggested by the prior art. The claims are therefore in a condition suitable for allowance. An early Notice of Allowance is requested.

If any further fees, other than and except for the issue fee, are necessary with respect to this paper, the U.S.P.T.O. is requested to obtain the same from deposit account number 19-3935.

Respectfully submitted,

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